



DEPARTMENT OF THE ARMY
UNITED STATES ARMY LEGAL SERVICES AGENCY
9275 GUNSTON ROAD
FORT BELVOIR, VA 22060-5546

JALS-EL

7 July 2016

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Preservation of Records for Defense Depot Memphis, Tennessee and Offsite Contamination, Investigation, and Response

1. The United States Army (the Army) anticipates bringing cost recovery litigation for past and future response actions and costs at Defense Depot Memphis, Tennessee (DDMT), pursuant to Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) §§ 107 and/or 113.
2. If the Army files a lawsuit, the defendants would be permitted to use the judicial discovery process to obtain U.S. Government records and other information related to the allegations. The law requires the Army to preserve all potentially relevant information reasonably related to the subject of the potential litigation, in whatever form it was generated and maintained.
3. Currently there is evidence to suggest that some contamination on DDMT is the result of offsite sources that have migrated onto the installation. The first identified source of contamination is located in the northwest corner of Dunn Field. The second is an offsite plume located in the southwest corner of the Main Installation near the offsite well MW-269.
4. At a minimum, potentially relevant information would include all documents, electronically stored information (ESI), and evidence pertaining to the identification, investigation, management, removal, remediation, cleanup, or disposal of contamination at DDMT. This includes documents, ESI and evidence specifically related to the two identified offsite plumes as well as any additional offsite plumes that are subsequently discovered.
5. As Army employees, you are required to preserve all relevant information, in whatever form it is generated and maintained, that is reasonably related to the subject of the litigation. This requirement applies to paper copies as well as ESI found on computer systems, removable or portable electronic storage media and personal home or portable computers. All ESI and other records containing information related to the subject matter, including emails and other electronic communication, word processing documents, spreadsheets, databases, calendars, telephone logs, internet usage files, network access information, and information on other kinds of media, including PDAs (such as Palm Pilots or Blackberries), must be retained until resolution of these matters. ESI should be preserved in its originally-created or "native" format. In addition, you are required to retain any and all non-electronic documents and evidence in whatever form, including personal or desk files, calendars, notes, correspondence, drafts, policies, manuals, or other things relevant to the case.


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6. Failure to preserve and retain information may result in sanctions against the Army, and individuals personally. Consequently, if you are unsure whether certain information should be preserved, err on the side of caution and preserve the information until you have spoken to me about it.
7. Please ensure that this letter is distributed to all personnel in your command or office who may be involved in, or have information pertaining to any response action associated with DDMT. If you become aware of additional agency personnel who may have potentially relevant information, please let us know. In addition, please record in writing the specific actions taken by your command or office in response to this letter.
8. In order to track implementation of this preservation request, please acknowledge receipt of on the attached Acknowledgement Form. Acknowledgements can be sent to the following ELD POC:

Ms. Laura Clifton, Paralegal Specialist
Email: Laura.m.clifton.ctr@mail.mil
Phone: (703) 693-0628
9. You are encouraged to coordinate your efforts in responding to this request with your Staff Judge Advocate or servicing legal office. If you have any questions about your obligations to preserve data, or to provide notice of potentially responsive documents, please contact Ms. Laura Clifton or myself at (703) 693-0430 or michael.j.lovelace.mil@mail.mil.


MICHAEL J. LOVELACE
MAJ, JA
Litigation Attorney

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U.S. Army Corps of Engineers
U.S. Army Installation Management Command, Atlantic Region
U.S. Army Base Realignment and Closure Division